

THE LAW OFFICE OF

ELISA HYMAN, P.C.

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March 7, 2022

BY ECF

Honorable Katherine Polk Failla  
United States District Court  
Southern District of New York  
Thurgood Marshall  
United States Courthouse  
40 Foley Square  
New York, NY 10007

**MEMO ENDORSED**

Re: *M.T., et al. v. New York City Department of Education, et al.*,  
20-cv-7544 (KPF) (KNF)

Dear Judge Polk Failla:

I represent the Plaintiffs in the above-referenced case. I write jointly with Defendants to respectfully request that the conference scheduled for March 9, 2022, be adjourned for at least thirty (30) days for reasons set forth herein. This is the parties' second request to adjourn this conference. In the alternative, we request that the conference be held by phone, rather than in person, to conserve the resources of the Court as well as minimize attorney's fees.

This date had originally adjourned for purposes of settlement. *See* dkt. no. 51. The parties reached an agreement in principle to settle Plaintiffs' substantive claims concerning compensatory services for K.C., the Student at issue, just prior to the last scheduled conference with Magistrate Judge Gorenstein. As such, we had requested permission to adjourn that conference so as to try to settle the remainder of the claims, which related to attorney's fees. The parties had requested that the Court allow them until March 4, 2022, to negotiate and submit a status letter.

Defendants' counsel did not calendar this date, however, and could have easily overlooked it, had Plaintiffs' counsel not contacted him on Friday afternoon. In fact, we then discovered that there appeared to be an email system error, as I showed Defendants' counsel copies of emails that I had sent on Thursday, March 2, 2022, as well as back in January 2022, with my office's timesheets and a draft stipulation. For some reason, Defendants' counsel did not receive any of these messages, and yet they did not bounce back to me. We advised Judge Gorenstein of this situation over the weekend. *See* dkt. no. 56.

As a result, additional time is needed for Defendants to obtain Comptroller approval to resolve the claim for attorneys' fees, and then submit a stipulation to the Court. Our offices settle many cases together and we have never had to litigate attorney's fees. Given the history of successful settlements between counsel, we do not believe we will need to litigate the issue of fees once Defendants obtain approval.

Accordingly, the parties respectfully request that the Court adjourn the conference until the first week in April 2022, or a time thereafter convenient for the Court, and to allow the parties until March 31, 2022, to finalize and submit a stipulation.

Thank you for Your Honor's consideration of this matter.

Respectfully Submitted,

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Elisa Hyman, Esq.  
Counsel for the Plaintiffs

cc: Andrew J. Rauchberg, Assistant Corporation Counsel

Application GRANTED. The conference scheduled for March 10, 2022, is hereby ADJOURNED to April 12, 2022, at 10:00 a.m. This conference shall proceed telephonically. At the appointed time, the parties are to call (888) 363-4749 and enter access code 5123533.

The Clerk of Court is directed to terminate the pending motion at docket entry 58.

Dated: March 8, 2022  
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE